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Protracted conflicts in the GUAM area and their implications for international peace, security and development

Security Council
Seventy-second year

Identical letters dated 25 February 2017 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to transmit herewith the fourth quarterly report (for the period October-December 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia (see annex).*

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 32, and of the Security Council.

(*Signed*) Kaha **Imnadze**
Ambassador
Permanent Representative

* The annex is being circulated in the language of submission only.

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Annex to the identical letters dated 25 February 2017 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

[English only]

Fourth quarterly report (October-December 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

Contents

		Page
I.	Introduction	3
II.	Freedom from torture and ill-treatment	8
III.	Arbitrary detention	9
IV.	Freedom of movement	11
V.	Right to property	13
VI.	Right to education in the native language	14
VII.	Conclusions	16
VIII.	Appeal to the international community	17

I. Introduction

Aims of the report and methodology applied

1. In January 2015, the Ministry of Foreign Affairs of Georgia began preparing quarterly reports to assess the human rights situation in the occupied regions of Georgia. The Ministry of Foreign Affairs prepared four such reports in 2015. This is the fourth quarterly report of the Ministry of Foreign Affairs for 2016, covering the period from October to December 2016. The Ministry of Foreign Affairs of Georgia will continue to prepare such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to States and to international intergovernmental and non-governmental organizations on the human rights situation in the occupied regions of Georgia.

2. As for the methodology applied, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to present information on all violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most well-known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia or for the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

Responsibility of the occupying power for human rights violations

3. The territories of two regions of Georgia, Abkhazia, Georgia, and the Tskhinvali Region, Georgia, are occupied by the Russian Federation and the human rights situation in these regions of Georgia remains alarming. The Russian Federation, as the occupying power, exercises effective control over Abkhazia, Georgia, and the Tskhinvali Region, Georgia. These two regions, still remaining under unlawful foreign military occupation, constitute, above all, dangerous "black holes" in terms of holding the human rights violators accountable. The occupying power, exercising effective control, has been preventing numerous international organizations from entering Abkhazia, Georgia, and the Tskhinvali Region, Georgia.

4. During the reporting period, a European Union (EU) statement on the fourteenth consolidated report of the Secretary-General of the Council of Europe on the conflict in Georgia[1] was made at the 1271st meeting of the Committee of Ministers of the Council of Europe.[2] According to the statement, "the human rights situation on the ground remains worrying". It should be emphasized that in the same statement, "[t]he EU calls on the Russian Federation to provide the EU Monitoring

[1] Consolidated report on the conflict in Georgia, Council of Europe (April-September 2016), SG/Inf(2016)37.

[2] European Union statement on the fourteenth consolidated report of the Secretary-General on the conflict in Georgia, 1271st meeting of the Committee of Ministers of the Council of Europe, 16 November 2016.

Mission (EUMM) with access to the Georgian regions." According to the statement, "[t]he EU regrets that the Secretariat delegation and the Council of Europe Human Rights Commissioner have not been granted access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia. The EU calls on all the concerned parties to facilitate access to the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia for the relevant bodies of the Council of Europe. The Council of Europe should be able to fully and effectively use its instruments to ensure monitoring of the human rights situation in all conflict affected areas and for the benefit of all persons in need of human rights protection. No obstacles should be created to the work of international partners in this field".[3]

5. During the reporting period, a statement of the Group of Friends of Georgia on the conflict in Georgia was adopted at the 2016 meeting of the Ministerial Council of the Organization for Security and Cooperation in Europe (OSCE), held in Hamburg on 8 and 9 December 2016. In the statement, the delegations of Canada, Lithuania, Poland, Romania, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America expressed "deep concern over the continuous discrimination against ethnic Georgians residing in the Georgian regions of Abkhazia and South Ossetia" and "condemn[ed] the gross violations of rights related to freedom of movement, residence, property, as well as right to education in one's native language and underline[d] that the placement of artificial obstacles, including barbed and razor wire fences, along the occupation line further aggravates the humanitarian situation on the ground". It should be emphasized that the statement called upon "the Russian Federation to enable access by international human rights monitoring mechanisms to the occupied territories of Georgia".[4]

6. During the reporting period, on 13 October 2016, at the session of the Parliamentary Assembly of the Council of Europe, Mr. Frank-Walter Steinmeier, then Foreign Minister of the Federal Republic of Germany, stated the following: "I support all the Council of Europe's efforts to secure regular access to Crimea for its monitoring bodies to observe the human rights situation. This is about not only Crimea, but South Ossetia, Abkhazia, Transnistria and Nagorno-Karabakh. There should be no blank areas on our continent where human rights are not observed".[5]

7. It should be recalled that on 19 May 2016, during the reporting period of the second quarterly report of the Ministry of Foreign Affairs of Georgia covering the period from April to June 2016, Mr. Giga Otkhozoria, was murdered by so-called "border guards", deployed along the occupation line with Abkhazia. The murder was committed in the village of Khurcha, Zugdidi district, located in the territory

[3] Ibid.

[4] Statement of the Group of Friends of Georgia on the conflict in Georgia, Ministry of Foreign Affairs of Georgia, 9 December 2016, available at www.mfa.gov.ge/News/%E1%83%94%E1%83%A3%E1%83%97%E1%83%9D-%E1%83%A8%E1%83%98-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1-%E1%83%9B%E1%83%94%E1%83%92%E1%83%9D%E1%83%91%E1%83%90%E1%83%A0%E1%83%97%E1%83%90-%E1%83%AF%E1%83%92%E1%83%A3%E1%83%A4%E1%83%98%E1%83%A1-%E1%83%A5%E1%83%95%E1%83%94%E1%83%A7%E1%83%9C%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%94%E1%83%A0%E1%83%97.aspx?lang=en-US.

[5] Parliamentary Assembly of the Council of Europe, 13 October 2016, available at http://assembly.coe.int/Documents/Records/2016/E/1610131000E.htm.

controlled by the Government of Georgia. The murderer of Mr. Giga Otkhozoria has been identified: Mr. Rashid Kanji-Ogli. After committing the murder Mr. Rashid Kanji-Ogli and his accomplices immediately fled to the occupied territory of Abkhazia. In May 2016, the Ministry of Foreign Affairs of Georgia issued a statement "concerning the fact of murder committed in the village of Khurcha, Zugdidi District, on 19 May 2016". According to the statement "this criminal act once again demonstrates the highly alarming situation in the occupied region of Abkhazia, Georgia, and the full responsibility for it lies with the Russian Federation, as the power in effective control of the region".[6] In May 2016, the Prosecutor's Office of Georgia filed charges against Mr. Rashid Kanji-Ogli for the premeditated murder of Mr. Giga Otkhozoria and criminal prosecution was launched under the Criminal Code of Georgia.[7] In July 2016, Mr. Khajimba publicly declared that Mr. Rashid Kanji-Ogli would not be handed over to the Georgian authorities.[8] During the reporting period, in December 2016, the Zugdidi District Court found the fugitive Mr. Rashid Kanji-Ogli guilty of the charges filed against him and sentenced him, in absentia, to deprivation of liberty for a term of 12 years.[9] However, under the existing circumstances, Mr. Rashid Kanji-Ogli and his accomplices still remain unpunished. The above situation with regard to the violation of the right to life of Mr. Giga Otkhozoria once again demonstrates that the occupied territories of Georgia remain "black holes" in terms of holding the violators of human rights accountable. The above situation further reaffirms the need for immediate, unhindered and continuous access by international human rights monitoring mechanisms to the occupied territories of Georgia.

Occupation line and the installation of barbed wire fences and other artificial obstacles

8. The occupation line along the administrative boundary line with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. The process of so-called "borderization" commenced in 2011. Currently, the total length of razor wire and barbed wire fences and other artificial obstacles along the occupation line in the Tskhinvali Region is nearly 52 km (the overall length of the occupation line is more than 350 km) and along the occupation line in Abkhazia is 48 km (the overall length of the occupation line is around 145 km).

[6] Statement by the Ministry of Foreign Affairs of Georgia concerning the fact of murder committed in the village of Khurcha, Zugdidi District, on 19 May 2016, available at www.mfa.gov.ge/News/%E1%83%A1%E1%83%90%E1%83%92%E1%83%90%E1%83%A0%E1%83%94%E1%83%9D-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94%E1%83%97%E1%83%90-%E1%83%A1%E1%83%90%E1%83%9B%E1%83%98%E1%83%9C%E1%83%98%E1%83%A1%E1%83%A2%E1%83%A0%E1%83%9D%E1%83%A1-%E1%83%92%E1%83%90%E1%83%9C%E1%83%AA%E1%83%AE%E1%83%90%E1%83%93%E1%83%94%E1%83%91%E1%83%90-2016-%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1-1.aspx?CatID=5&lang=en-US.

[7] "The Prosecutor's Office launches criminal proceedings in connection with the murder of Giga Otkhozoria", Prosecutor's Office of Georgia, 21 May 2016, available at http://pog.gov.ge/eng/news?info_id=932.

[8] "Abkhazia will not hand over to Georgia border guard suspected in murder", *Ria Novosti*, 6 July 2016, available at https://ria.ru/world/20160706/1459757274.html.

[9] "Court finds Rashid Kanji-Ogli, accused of Giga Otkhozoria's murder, guilty", Prosecutor's Office of Georgia, 28 December 2016, available at http://pog.gov.ge/eng/news?info_id=1095.

9. According to the European Union statement on the Secretary-General's fourteenth consolidated report on the conflict in Georgia, "the EU is deeply concerned about the illegal activities of 'borderization', which divides families and communities and impedes the [movement of] people on the ground, depriving them of fundamental rights, including education in their native language, property rights and freedom of movement, including in the context of so-called 'border crossing', which, inter alia, may lead to fatal incidents. The EU calls on the authorities exercising effective control to remove the fences and other obstacles to the freedom of movement and to investigate all allegations of all crimes and human rights violations on the ground."[10]

10. During the reporting period, an article was published in *The New York Times* describing the problems created by the occupation line and the installation of barbed wire fences in the Tskhinvali region.[11] According to the article, the village of Jariasheni is "[m]arked in places with barbed wire laid at night, in others by the sudden appearance of green signs declaring the start of a 'state border' and elsewhere by the arrival of bulldozers, the reach of Russia keeps inching forward into Georgia with ever more ingenious markings of a frontier that only Russia and three other states recognize as real." The article states that "[t]he green border signs that first appeared last year and now keep popping up along the zigzagging boundary warn that 'passage is forbidden' across what is declared to be a 'state border'." According to the article, "Kestutis Jankauskas, the head of the European Union Monitoring Mission in Georgia, said it was hard to know where this boundary line exactly runs. It was never recognized or agreed upon, and its location depends on which maps are used. Russia, he said, is using a map drawn by the Soviet military's general staff in the 1980s. It demarcates what in the Soviet era was an inconsequential administrative boundary within the Soviet Socialist Republic of Georgia but what is now hardening into a hazardous frontier. The fitful movement of the boundary seems to be driven mostly by Russia's desire to align what it sees as a state border with this old Soviet map. So far, the movement has always been forward, often by just a few yards but at other times by bigger leaps."[12]

New so-called "laws" and the new wave of so-called "passportization"

11. As a result of a reaction of the international community on the issue of adoption of so-called new "laws" and so-called "passportization", a decision was made in December 2016 to amend the so-called "law on the legal status of foreign citizens in Abkhazia" to enable residents of Gali district holding Georgian citizenship to obtain "residence permits". According to the amendment, "resident permits can be issued to individuals holding foreign citizenship if they were born in Gali district of the Soviet Socialist Republic of Abkhazia".[13] However, it should be

[10] European Union statement on the fourteenth consolidated report of the Secretary-General on the conflict in Georgia, 1271st meeting of the Committee of Ministers of the Council of Europe, 16 November 2016.

[11] "In Russia's 'Frozen Zone,' a Creeping Border With Georgia", Andrew Higgins, *The New York Times*, 23 October 2016, available at www.nytimes.com/2016/10/24/world/europe/in-russias-frozen-zone-a-creeping-border-with-georgia.html.

[12] Ibid.

[13] "Resident permits will be given to foreign citizens in Gali", *Apsny*, 29 December 2016, available at http://apsny.ru/news/?ID=26462.

noted that resident permits will not enable holders of foreign citizenship to obtain so-called "Abkhazian citizenship".[14]

12. As part of the new wave of so-called "passportization" in the Abkhazian region, the issuance of so-called "passports" started in May 2016 and continued during the reporting period.[15] By the middle of December 2016, more than 3,000 new so-called "Abkhaz passports" had been issued.[16] It has been decided to extend the expiry date of old so-called "Abkhaz passports" until 31 December 2018.[17] It should be emphasized that on 18 October 2016, the so-called "head of administration of Gali district" of the Sokhumi occupation regime declared that "of the 17,800 residents of Gali district, only 340 have Abkhazian citizenship, the rest are Georgian citizens".[18]

13. It should be recalled that on 1 April 2016, the so-called "law on the legal status of foreign citizens in Abkhazia"[19] and the "law on entry into and exit from Abkhazia"[20] became operational. A similar document was adopted by the Tskhinvali occupation regime, namely the so-called "law on the legal status of foreigners in the Republic of South Ossetia". The adoption of so-called "laws" in many ways targets the ethnic Georgian population living in the occupied territories. The Ministry of Foreign Affairs of Georgia once again expresses its serious concern regarding the

[14] "Legal status of residents of Eastern districts of Abkhazia will be regulated", *Nuzhnaya Gazeta*, 29 December 2016, available at https://abh-n.ru/pravovoe-polozhenie-zhitelej-vostochnyx-rajonov-abxazii-budet-uregulirovano/.

[15] "Tania: during one month 300 passports were distributed in Sokhumi", *Apsnypress*, 19 December 2016, available at http://www.apsnypress.info/news/taniya-za-mesyats-po-sukhumu-vydano-svyshe-300-pasportov/.

[16] "Manargia: more than 3,000 new Abkhaz passports were issued", *Sputnik-Abkhazia*, 19 December 2016, available at http://sputnik-abkhazia.ru/Abkhazia/20161219/1020088707/manargiya-oformleno-bolee-trex-tysyach-novyx-abxazskix-pasportov.html

[17] "Expiry date of Abkhaz passports of old sample was extended until 31 December 2018", *Apsnypress*, 31 December 2016, available at http://www.apsnypress.info/news/data-okonchaniya-sroka-deystviya-pasportov-starogo-obraztsa-perenesena-na-31-dekabrya-2018-goda/.

[18] "Nadaraia: project is ready on creation of special economic zone in Gali district", *Apsnypress*, 18 October 2016, available at http://www.apsnypress.info/news/nadaraya-gotov-proekt-po-sozdaniyu-v-galskom-rayone-osoboy-ekonomicheskoy-zony/.

[19] The so-called "law on the legal status of foreign citizens in Abkhazia" was designed in order to place ethnic Georgians living in the region of Abkhazia into a category of "foreign citizens" and to discriminate against them in many ways. Many ethnic Georgians living in Abkhazia, predominantly in Gali district, hold Georgian citizenship that qualifies them as "foreigners" under the so-called "law on the legal status of foreign citizens in Abkhazia" and therefore puts limitations on their human rights, including freedom of movement, the right to property and labour rights. Under this so-called "law", ethnic Georgians holding Georgian citizenship have been deprived the possibility of obtaining residence permits and respective restrictive clauses served as "legal" grounds for the persecution of ethnic Georgian families.

[20] By the adoption of the so-called "law on entry into and exit from Abkhazia", the decision has been made to introduce visas for States: (a) not recognizing the so-called "independence of Abkhazia" and (b) not having a "bilateral agreement" on visa-free travel. Under this so-called "law" any person can exit Abkhazia, however, only so-called "citizens of Abkhazia" can enter the Abkhazian region without additional formalities. It should be noted that a foreign citizen or a person without citizenship can be expelled from the territory of occupied Abkhazia if that person poses a threat to safety, security or public order. It should be emphasized that this so-called "law", creates additional obstacles to representatives of international organizations, leading to the further isolation of the region.

adoption of new discriminatory regulations for ethnic Georgians living in the occupied regions of Georgia.

II. Freedom from torture and ill-treatment

14. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, the Russian Federal Security Service (FSB) officers and representatives of the Sokhumi and Tskhinvali occupation regimes regularly take actions that amount to torture and ill-treatment. For years, there has been a regular flow of information on inadequate detention conditions in so-called "detention centres" in the occupied regions of Georgia. The practice of torture and ill-treatment in the occupied regions of Georgia remained an issue of concern during the reporting period.

15. During the reporting period, on 10 December 2016, the Public Defender of Georgia issued a report on human rights and freedoms in 2016. According to the report, "inappropriate and degrading treatment is regularly applied toward detainees at Russian military bases, including forced labour, verbal and physical abuse, restriction of food and water".[21]

16. On 27 November 2016, three members of the so-called "special forces unit" of the Tskhinvali occupation regime inflicted a severe physical assault on a 21-year-old resident in Tskhinvali. As a result of the numerous blows that were inflicted on the head of the victim, he was later hospitalized. During the incident, one of the members of the so-called "special forces unit" even fired a shot in the direction of the victim.[22]

17. In December 2016 in Tskhinvali, members of the so-called "special forces unit" of the Tskhinvali occupation regime physically assaulted two schoolchildren, one boy and one girl of grade 11 in school No. 2, in the restaurant "Oasis". Trauma to the head was inflicted on both children, as a result of which the boy lost consciousness. The victims were later transported to a hospital for medical treatment.[23]

18. In October 2016, Mr. Khajimba declared that "there is a need to change the detention conditions of detainees in the detention centre" and the so-called "minister of the interior" of the Sokhumi occupation regime declared that "problems related to the detention conditions of criminals have remained unsolved for 23 years

[21] Report on the situation of the protection of human rights and freedoms in Georgia, Public Defender of Georgia, 10 December 2016, p. 20, available at www.ombudsman.ge/uploads/other/4/4088.pdf.

[22] "A resident of Tskhinvali was beaten by members of special forces unit", *Sputnik-Ossetia*, 2 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161202/3395524.html; "General Prosecutor's Office started investigation into members of special forces unit who have beaten a resident of Tskhinvali", *Sputnik-Ossetia*, 6 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161206/3413768.html.

[23] "Tibilov: members of special forces unit should be examples of behaviour", *Sputnik-Ossetia*, 29 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161229/3528028.html; "Prosecutor's office is investigating details of brawl between youngsters and special forces unit", *Sputnik-Ossetia*, 27 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161227/3517504.html.

already".[24] It has been argued by representatives of the Sokhumi occupation regime that the "absence of motivation of employees of the ministry of the interior to work in the detention centre [is] due to the low salary there"; and that "understaffing of the preliminary detention centre, which equals 60 per cent", and the non-provision of "the detention centre with necessary technical equipment" are behind the problems.[25]

III. Arbitrary detention

19. Russian FSB officers regularly carry out arbitrary detentions for so-called "illegal border crossing" along the occupation lines with the Abkhazia and Tskhinvali regions. In most cases detention is followed by fines and later release. The detention period can last several days, several months or, in some cases, several years. According to data supplied by the State Security Service of Georgia, between 2008 and 12 December 2016, in total, 2,775 people were detained by Russian FSB officers for so-called "illegal border crossing": 1,788 people were detained along the occupation line with the Abkhazian region and 987 people were detained along the occupation line with the Tskhinvali region; from 1 January 2016 to 12 December 2016, 190 people were detained along the occupation line with the Abkhazian region and 132 people were detained along the occupation line with the Tskhinvali region.[26] It should be noted that according to the information of the so-called "State Security Committee of South Ossetia", 549 people were detained for so-called "illegal border crossing" along the occupation line with the Tskhinvali region over the course of 2016.[27]

20. According to a report of the Public Defender of Georgia issued during the reporting period, "armed forces of the Russian Federation continue to detain minors, pregnant women, patients and older people".[28]

21. It is particularly alarming that, during the reporting period, Mr. Giorgi Giunashvil remained in illegal detention in so-called Tskhinvali prison.[29] As described in the third quarterly report (July-September 2016) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, on 8 June 2016, Mr. Giorgi Giunashvil, a citizen of Georgia, was detained

[24] "Raul Khajimba: it is necessary to regulate issue of increasing salaries to employees of the preliminary detention centre", *Apsnypress*, 20 October 2016, available at http://apsnypress.info/news/raul-khadzhimba-neobkhodimo-reshit-voprosy-povysheniya-zarabotnoy-platy-sotrudnikam-sizo/.

[25] Ibid.

[26] "Representatives of the Russian occupying forces detained 2,775 Georgians between 2008 and 12 December 2016 for so-called 'illegal border crossing' in the occupied territories of Georgia", *Pirweli Information Agency*, 12 December 2016, available at http://pia.ge/post/84592-rusma-okupantebma-2-775-qartveli-daakaves.

[27] "Authorities of South Ossetia expelled violator of state border from Georgia", *Sputnik-Ossetia*, 28 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html.

[28] Report on the situation of the protection of human rights and freedoms in Georgia, Public Defender of Georgia, 10 December 2016, p. 20, available at www.ombudsman.ge/uploads/other/4/4088.pdf.

[29] "IPRM meeting held in Ergneti", State Security Service of Georgia, 30 November 2016, available at http://ssg.gov.ge/en/news/197/IPRM-Meeting-Held-in-Ergneti.

by Russian FSB officers for so-called "illegal border crossing" along the occupation line with the Tskhinvali region. Initially, the detainee was sentenced to two months of imprisonment for so-called "illegal border crossing". However, later, the so-called "prosecutor's office" of the Tskhinvali occupation regime initiated a "criminal case" against Mr. Giorgi Giunashvil accusing him of "causing serious damage to the health" of an unspecified resident of the Tskhinvali region in 2008. The Government of Georgia considers the above accusations against Mr. Giorgi Giunashvil to be groundless and fabricated and therefore calls for his unconditional release.[30]

22. During the reporting period, numerous cases of arbitrary detention were reported in the occupied regions of Georgia. Below are only a few examples.

23. On 12 October 2016, a resident of the village of Plavi, Gori district, was detained for so-called "illegal border crossing" along the occupation line with the Tskhinvali region and "criminal charges" were filed against him for the above reason.[31] However, according to the family members of the detainee, he had not crossed the occupation line.[32]

24. On 22 October 2016, a resident of the village of Mejvriskhevi, Gori district, was detained by Russian FSB officers for so-called "illegal border crossing" near the occupation line with the Tskhinvali region. The resident of the village of Mejvriskhevi did not cross the occupation line; when detained he was near the occupation line for cattle grazing.[33]

25. On 24 October 2016, a resident of the village Kirbali, Gori district, was detained by Russian FSB officers for so-called "illegal border crossing" near the occupation line with the Tskhinvali region. When detained, the resident of the village of Kirbali was collecting timber in the forest near the occupation line. He did not cross the occupation line. The detainee spent three days in detention in the Tskhinvali region.[34]

26. On 5 and 6 November 2016, six citizens of Georgia were detained for so-called "illegal border crossing" along the occupation line with the Tskhinvali region.[35]

[30] Ibid.

[31] "Criminal case was filed in relation to violator of border from Georgia", *Sputnik-Ossetia*, 12 October 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161012/3149539.html.

[32] "A resident of the village of Plavi was detained for so-called 'illegal border crossing'", *IPN*, 12 October 2016, available at www.interpressnews.ge/ge/konfliqtebi/401945-ets-sazghvris-ukanonod-gadakvethis-braldebith-sofel-flavis-mckhovrebi-daakaves.html?ar=A.

[33] "43-year-old man was detained for so-called 'illegal border crossing'", *GHN*, 22 October 2016, available at http://ghn.ge/com/news/view/162625.

[34] "What is the story of a man who spent three days in illegal detention at the Tskhinvali detention centre?" *Palitra News*, 27 October 2016, available at www.palitratv.ge/yvela-video/akhali-ambebi/79610-ras-hyveba-ckhinvalis-izolatoridan-samdghiani-ukanono-patimrobis-shemdeg-gathavisuflebuli-mamakaci.html.

[35] "Tskhinvali regime released six Georgian citizens as a result of fine payment", *IPN*, 8 November 2016, available at www.interpressnews.ge/ge/konfliqtebi/405626-ckhinvalis-rezhimma-jarimis-gadakhdis-shemdeg-saqarthvelos-6-moqalaqe-gaathavisufla.html?ar=A.

27. On 27 November 2016, an 18-year-old resident of Gori district was detained by Russian FSB officers in the village of Jariasheni, near the occupation line with the Tskhinvali region, and was abducted to the occupied Tskhinvali region.[36]

28. On 6 December 2016, several schoolchildren residing in the occupied village of Otobaia, Gali district, were detained by Russian FSB officers in Abkhazia. The schoolchildren were held in detention in the Russian military base for around five hours.[37]

29. On 27 December 2016, a resident of the village of Mejvriskhevi, Gori district, was detained by Russian FSB officers for so-called "illegal border crossing" along the occupation line with the Tskhinvali region.[38]

IV. Freedom of movement

30. Along the occupation lines with the Abkhazia and Tskhinvali regions people are regularly subject to restrictions on freedom of movement by Russian FSB officers: the operating crossing points along the occupation lines allow crossings only to individuals having one of the types of "documents" recognized by the occupying power. Those unable to present such a "document" or who show up at the crossing point out of working hours are denied the right to cross, often leading to various problems for locals, including children. Restrictions on freedom of movement remained an issue of concern during the reporting period, as attested by various sources.

31. It should be recalled that in spring 2016, two crossing points of the six crossing points along the occupation line with the Abkhazian region were closed down.[39] In November 2016, Mr. Khajimba spoke publicly about the policy of closing down the crossing points along the occupation line with the Abkhazian region.[40] On 5 December 2016, the so-called "head of administration of Gali district" of the Sokhumi occupation regime publicly declared that "the Russian border guards are closing more and more segments of fords on the River Enguri, the places in the river which were used to cross the border illegally... In 2016 everything is ready to close down two more crossing points".[41] Eventually, by so-called "decree No. 241" of the so-called "government of Abkhazia", dated

[36] "Occupiers abducted 18-year-old man from the village of Jariasheni", Ambebi.ge, 27 November 2016, available at www.ambebi.ge/semtxveva/184430-sofel-jariashenidan-okupantebma-18-tslis-mamakaci-gaitaces.html.

[37] "So-called 'border guards' freed schoolchildren detained in occupied Abkhazia", *Pirweli Information Agency*, 6 December 2016, available at http://pia.ge/post/83148-e-w-mesazrvreebma-okupirebul-afxazetsi-dakavebuli-skolis-moswavleebi-gaatavisufles.

[38] "Authorities of South Ossetia expelled violator of state border from Georgia", *Sputnik-Ossetia*, 28 December 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161228/3522804.html.

[39] Consolidated report on the conflict in Georgia, Council of Europe (April-September 2016), 2016, SG/Inf(2016)37, para. 41.

[40] "Raul Khajimba: we will not let anybody destroy our state in the heat of revenge", *Apsnypress*, 10 November 2016, available at www.apsnypress.info/news/raul-khadzhimba-my-nikomu-ne-pozvolim-v-pylu-revanshizma-razrushat-nashu-gosudarstvennost/.

[41] "Temur Nadaraia: data supplied by Dimitri Dbar are not authentic and mislead the public", *Apsnypress*, 5 December 2016, available at www.apsnypress.info/news/temur-nadaraya-tsifry-privedyennye-dmitriem-dbar-nedeystvitelny-i-vvodyat-v-zabluzhdenie-obshchestve/.

28 December 2016, a decision was made to close down two more crossing points, "Nabakevi crossing point" and "Otobaia crossing point", along the occupation line with the Abkhazian region.[42] It should be noted that, according to paragraph 3 of so-called "decree No. 241", "the decree will enter into force 30 days after it is published".[43] When commenting on the decision to close two additional crossing points, the representative of the so-called "government of Abkhazia" stated the following: "in accordance with the government decision adopted earlier, we are gradually decreasing the number of crossing points on the border with Georgia".[44]

32. According to information disseminated on 26 October 2016, Mr. Tibilov declared that "Tskhinvali needs airplanes in order to eradicate the practice of Ossetians travelling to Georgia for medical treatment". According to the source, Mr. Tibilov stated that "local residents often request that the authorities send them to Georgia for medical treatment, where it is much easier to travel, rather than to North Ossetia [the Russian Federation]". According to Mr. Tibilov, "South Ossetia is discussing with the Russian Federation the issue of creating its own aviation [service]".[45]

33. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, in both the Abkhazian region and the Tskhinvali region so-called "border zones" have been established in the vicinity of the occupation lines by the occupying power. Residents of each occupied region are subject to restrictions on freedom of movement in terms of entering these so-called "border zones" and in terms of moving within these so-called "border zones". It should be emphasized that during the reporting period, the so-called "deputy minister of foreign affairs" of the Sokhumi occupation regime declared that "there is a decision by the government, adopted very recently, in fact, a few days ago, which approved an extension of the border zone".[46] According to the same source, "this is a regime zone and, correspondingly, entrance to this zone will be always restricted. Those who dwell there (householders, guests, etc.) fall under this regime".[47] According to information disseminated on 15 November 2016, local residents of Gali district of the occupied Abkhazian region are subject to restrictions on freedom of movement: the Russian military personnel deployed there demand "documents" in order to allow local residents to move across internal routes

[42] "Two more crossing points on the border on the River Enguri will be closed", *Apsnypress*, 28 December 2016, available at www.apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-reke-ingur/; Decree of the government of the republic of Abkhazia, 28 December 2016, available at www.gazeta-ra.info/index.php?ELEMENT_ID=14673.

[43] Decree of the government of the republic of Abkhazia, 28 December 2016, available at www.gazeta-ra.info/index.php?ELEMENT_ID=14673.

[44] "Two more crossing points on the border on the River Enguri will be closed", *Apsnypress*, 28 December 2016, available at www.apsnypress.info/news/zakryvayutsya-eshche-dva-punkta-propuska-na-granitse-po-reke-ingur/.

[45] "Leonid Tibilov: Tskhinvali needs airplanes in order to eradicate the practice of Ossetians travelling to Georgia for medical treatment", *Ambebi.ge*, 26 October 2016, available at www.ambebi.ge/conflicts/180939-leonid-thibilovi-ckhinvals-thvithmfrinavebi-steirdeba-imisthvis-rom-saqarthveloshi-osebis-samkurnalod-chasvla-aghkvethos.html.

[46] "Talks on the militarization of Gali district are untenable", *ekhokavkaza*, 24 November 2016, available at www.ekhokavkaza.com/a/28137770.html.

[47] Ibid.

of Gali district.[48] According to information disseminated on 16 December 2016, in the villages of Saberio, Lekukhona and Cheghali, Gali district, the freedom of movement of local residents is restricted: the occupiers demand "documents" from locals in order to allow them to move from one village to another and take photos of local residents, presumably in order to create a database.[49]

34. It should be emphasized that according to information disseminated on 23 November 2016, Russian FSB officers restricted the freedom of movement of residents of the villages of Akhalubani, Adzvi and Jariasheni, Gori district. In particular, on the occasion of Saint George's Day, they could not visit and pray in Saint George's Church, located near the occupation line with the Tskhinvali region.[50]

V. Right to property

35. During the reporting period, violations of the right to property caused by the occupation of the territories of Georgia remained an issue of concern.

36. During the reporting period, a representative of the Tskhinvali occupation regime stated that "particularly in locations where the border is not yet clearly formalized, residents of adjacent territories often cultivate land and harvest crops and therefore violate the law." He further stated that "In cases when the border crosses directly through premises and plots of land, a householder should keep a passport in order to enter his plot of land, which remains in the territory of another State. There are a lot of such situations, predominantly in the village of Zardiantkari".[51]

37. According to an article that was published during the reporting period in *The New York Times*, the occupation line in the Tskhinvali region creates problems for local residents in terms of enjoyment of the right to property. According to the article, "the dirt track now running through this tiny Georgian village [of Jariasheni] nonetheless means that Vephivia Tatiashvili can no longer go to his three-story house because it sits on land now patrolled by Russian border guards." The article argues that "[t]here is no fence or barbed wire, but Mr. Tatiashvili does not dare to

[48] "In occupied Abkhazia the population is subject to restrictions of movement on so-called border", *Pirweli Information Agency*, 15 November 2016, available at http://pia.ge/post/540-okupirebul-afxazetsi-e-w-sazrvarze-mosaxleobas-gadaadgileba-seezruda.

[49] "In the villages of Gali district, occupiers restrict freedom of movement of locals", *Pirweli Information Agency*, 16 December 2016, available at http://pia.ge/post/83972-okupirebuli-galis-soflebsi-okupantebi-adgilobrivebs-gadaadgilebas-uzrudaven.

[50] "In Gori district, near the occupation line, the mobilization of so-called 'Russian border guards' was noticeable", Newposts, 23 November 2016, available at www.newposts.ge/?l=G&id=125858-%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98,%20%E1%83%A1%E1%83%90%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9E%E1%83%90%E1%83%AA%E1%83%98%E1%83%9D,%20%E1%83%9B%E1%83%94%E1%83%A1%E1%83%90%E1%83%96%E1%83%A6%E1%83%95%E1%83%A0%E1%83%94,%20%E1%83%92%E1%83%98%E1%83%9D%E1%83%A0%E1%83%92%E1%83%9D%E1%83%91%E1%83%90; "Population is not allowed to pray near administrative boundary line with so-called South Ossetia", *Kvira*, 23 November 2016, available at http://kvira.ge/295904.

[51] "David Sanakoev: arrangement of border depends on financing", *Sputnik-Ossetia*, 13 October 2016, available at http://sputnik-ossetia.ru/South_Ossetia/20161013/3158517.html.

cross the track to visit his house for fear of being arrested, as his elderly neighbor was, by Russian border guards. 'It is too dangerous for me to go home', he said, complaining that the boundary has become so mobile that nobody really knows its final destination. Mr. Tatiashvili now lives in his brother's house, away from the border in the village center ... 'Russia starts right here', said Mr. Tatiashvili, pointing to the freshly dug track that separates his house from Georgian-held land." The article further observes that "Elizbar Mestumrishvili, 75, a farmer who lives next to Mr. Tatiashvili's now-marooned house, can still get to his home, as it lies on the Georgian side of the new dirt track. But he is wary of going to the bottom of his garden, which lies within a 60-yard frontier zone that Russian and South Ossetian security officers claim the right to patrol. Pointing to a row of vines drooping with plump grapes, he said it was unwise to walk any farther because 'they might come and set up a border post'."[52]

38. According to local residents of Gali district, the so-called "administration of Gali district" of the Sokhumi occupation regime forces them to sell most of their harvested citrus crops in the Russian Federation; however, it is economically much more profitable for them to sell their citrus crops in Zugdidi, the territory controlled by the Government of Georgia.[53] It should be noted here that the European Court of Human Rights has interpreted "possessions" under article 1 (protection of property), Protocol No. 1 to the European Convention on Human Rights very broadly and has held that it includes movable or immovable property and also the economic interests connected with "possessions".[54]

VI. Right to education in the native language

39. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, in the Gali district there are 31 schools and of these 31 schools only 11 schools, all of which are in the so-called "lower zone" of Gali district, had the status of Georgian schools until the end of the academic year 2014/2015. However, from the beginning of September of the academic year 2015/2016, drastic changes were made in the curriculum of these 11 schools, meaning that the teaching of all subjects is in the

[52] "In Russia's 'Frozen Zone,' a Creeping Border With Georgia", Andrew Higgins, *The New York Times*, 23 October 2016, available at www.nytimes.com/2016/10/24/world/europe/in-russias-frozen-zone-a-creeping-border-with-georgia.html.

[53] *Abkhazian de facto authorities force the population of Gali district to transport citrus to Russia*, Business Press News, 27 October 2016, available at https://bpn.ge/finansebi/27714-afkhazethis-de-faqto-khelisufleba-galis-mosakhleobas-citrusis-rusethshi-gatanas-aidzulebs.html?device=xhtml&lang=ka-GE.

[54] "Possessions" include "a range of economic interests. The following have been held to fall within the protection of article 1: movable or immovable property, tangible or intangible interests, such as shares, patents, an arbitration award, the entitlement to a pension, a landlord's entitlement to rent, the economic interests connected with the running of a business, the right to exercise a profession, a legitimate expectation that a certain state of affairs will apply, a legal claim, and the clientele of a cinema." Carss-Frisk, M. *The right to property: a guide to the implementation of article 1 of Protocol No. 1 to the European Convention on Human Rights*, Human rights handbooks, No. 4 (Strasbourg: Council of Europe, 2001), p. 6, available at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680071f4a.

Russian language in grades one to four. The academic year 2016/2017 started in line with the above changes, meaning the teaching of all subjects in the Russian language and therefore the Russian language became the formal language of instruction also in grade five. The above policy, if continued for several years, would result in the gradual replacement of the Georgian curriculum with the Russian curriculum for all grades in these 11 schools of the so-called "lower zone" of Gali district.

40. According to the report of the Public Defender of Georgia, issued during the reporting period, "problems remain with the access of people living on occupied territories to education".[55]

41. During the reporting period, the situation with regard to the right to education in the native language in the Gali district remained the same. According to the European Union statement of 16 November 2016 on the fourteenth consolidated report on the conflict in Georgia: "[t]he EU expresses its concern at reports on a continuing deterioration of the access to education in the native language in the Georgian region of Abkhazia. We strongly believe that the right to education for everyone, including education in the native language, should be guaranteed and applied in the Georgian regions of Abkhazia and Tskhinvali/South Ossetia as well. We join the efforts of the Co-Chairs of the Geneva International Discussions to promote the understanding of and respect for the universal right to education of the child".[56]

42. As described in previous quarterly reports of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia, there is a tendency among parents to decide to terminate attendance by their children of the schools with the newly introduced Russian curriculum and to transfer them to the schools located on the other side of the occupation line; however, the right to education in the native language remains problematic also in relation to freedom of movement. For example, in the reporting period, on the morning of 6 December 2016, several schoolchildren residing in the occupied village of Otobaia, Gali district, were detained by Russian FSB officers and were prevented from crossing the occupation line in Abkhazia and therefore from attending school in the village of Darcheli, Zugdidi district, the territory controlled by the Government of Georgia. It should be noted that the schoolchildren were held in detention in the Russian military base for around five hours.[57] Moreover, the decision to close down two more crossing points along the occupation line with the Abkhazian region will create further impediments to the schoolchildren going to schools on the territory controlled by the Government of Georgia to get the education in the native language, as they will have to cover several additional kilometres every day.

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[55] Report on the situation of the protection of human rights and freedoms in Georgia, Public Defender of Georgia, 10 December 2016, p. 20, available at www.ombudsman.ge/uploads/other/4/4088.pdf.

[56] European Union statement on the fourteenth consolidated report of the Secretary-General on the conflict in Georgia, 1271st meeting of the Committee of Ministers of the Council of Europe, 16 November 2016.

[57] "So-called 'border guards' freed schoolchildren detained in occupied Abkhazia", *Pirweli Information Agency*, 6 December 2016, available at http://pia.ge/post/83148-e-w-mesazrvreebma-okupirebul-afxazetsi-dakavebuli-skolis-moswavleebi-gaatavisufles.

VII. Conclusions

43. It can be concluded that the situation described in the occupied regions of Georgia and the examples provided for the reporting period constitute infringements of the right to freedom from torture and ill-treatment and are therefore violations of article 7 of the International Covenant on Civil and Political Rights; article 5 of the Universal Declaration of Human Rights; article 3 of the European Convention on Human Rights; and the OSCE commitments.[58]

44. It can be concluded that the situation described in the occupied regions of Georgia with regard to arbitrary detention and the examples provided for the reporting period constitute arbitrary detention and are therefore violations of article 9 of the International Covenant on Civil and Political Rights; article 3 of the Universal Declaration of Human Rights; article 5 of the European Convention on Human Rights; and relevant provisions of the OSCE commitments.

45. It can be concluded that the situation described in the occupied regions of Georgia with regard to freedom of movement and the examples provided for the reporting period constitute violations of the right to freedom of movement, namely of article 12 of the International Covenant on Civil and Political Rights; article 13 of the Universal Declaration of Human Rights; article 2 of Protocol No. 4 to the European Convention on Human Rights; and the OSCE freedom of movement commitments.

46. It can be concluded that the situation described in the occupied regions of Georgia with regard to the right to property and the examples provided for the reporting period constitute violations of the right to property, namely of article 17 of the Universal Declaration of Human Rights; article 1 of Protocol No. 1 to the European Convention on Human Rights; and the OSCE commitments.

47. It can be concluded that the situation described in the occupied regions of Georgia with regard to education in the native language and the examples provided for the reporting period constitute violations of the right to education in one's native language and therefore violations of article 26 (read in conjunction with article 2) of the Universal Declaration of Human Rights; article 2 of Protocol No. 1 to the European Convention on Human Rights; article 28 (read in conjunction with paragraph 1 of article 2) of the Convention on the Rights of the Child; and relevant provisions of the OSCE commitments.

48. It can be concluded that the situation described in the occupied regions of Georgia, particularly the adoption of so-called "laws" and the process of "passportization", violates the prohibition of discrimination provisions of article 14 of the European Convention on Human Rights and its Protocol No. 12; article 26 of the International Covenant on Civil and Political Rights; and the International Convention on the Elimination of All Forms of Racial Discrimination.

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[58] The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment (para. 23.4); the Charter of Paris for a New Europe (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Charter for European Security (1999) commits to "eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area" (para. 21).

VIII. Appeal to the international community

49. The Ministry of Foreign Affairs of Georgia appeals to the international community, States and international intergovernmental and non-governmental organizations:

(a) To call on the Russian Federation to reverse its recognition of independence of the Georgian regions Abkhazia and Tskhinvali and to end the occupation of the Georgian territories;

(b) To call on the Russian Federation to stop violations of human rights in the occupied territories while exercising effective control;

(c) To continue calling on the Russian Federation to ensure the free movement of people and the removal of barbed wire and razor wire and other artificial obstacles and banners along the occupation line;

(d) To take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:

(i) The Office of the United Nations High Commissioner for Human Rights to take additional measures in order to regularly address and assess the human rights situation in Abkhazia and the Tskhinvali region of Georgia;

(ii) The special procedures mandate holders of the Human Rights Council to take additional measures in order to address and report on the human rights situation in Abkhazia and the Tskhinvali region of Georgia;

(iii) The Commissioner for Human Rights of the Council of Europe to take additional measures in order to address and report on the human rights situation in Abkhazia and the Tskhinvali region of Georgia;

(iv) The OSCE and its autonomous institutions, namely the Office for Democratic Institutions and Human Rights and the Office of the High Commissioner on National Minorities, to find ways of monitoring the human rights situation in the occupied regions of Georgia by, inter alia, undertaking a follow-up mission to the occupied regions of Georgia and preparing a report on the status of implementation of the recommendations contained in the 2008 report entitled "Human rights in the war-affected areas following the conflict in Georgia";

(e) To continue calling on the Russian Federation to allow access by international human rights monitoring mechanisms to the occupied regions of Georgia; and access by the relevant missions of international organizations (such as EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes;

(f) To continue and intensify the condemnation of violations of human rights such as the right to life; freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property; and the right to receive education in the native language in the occupied regions of Georgia.

Enclosure

Ministry of Foreign Affairs published the fourth quarterly report for 2016 on the human rights situation in the occupied regions of Georgia

For 2016, the Ministry of Foreign Affairs prepared the fourth quarterly report on the human rights situation in the occupied regions of Georgia. The report covers the period from October to December 2016 and reveals human rights violations in the occupied territories of Georgia during the period.

The report was prepared by the Ministry of Foreign Affairs of Georgia in coordination with various government agencies. The report is based on open sources of information and aims at providing the international community with periodic information on the human rights situation in Georgia's occupied territories in order to ensure its adequate reaction.

It should be emphasized that gross violations of human rights, including inhuman treatment, arbitrary detention, restrictions of freedom of movement and the mass infringement of property rights, as well as restrictions on the right to receive education in the native language were reported from the occupied territories in the indicated period. The process of installation of barbed wire fences, other artificial obstacles and banners across the occupation line adds to the gravity of the otherwise tense situation. It should be emphasized that during the reporting period a decision was made to close down two more crossing points along the occupation line with the Abkhazian region. In addition, it was decided to extend the so-called "border zone" in the Abkhazian region. These developments aim to further restrict the freedom of movement of local residents.

The Ministry of Foreign Affairs is concerned about the human rights situation in the occupied territories of Georgia and appeals to the international community to take immediate and adequate measures for the eradication of grave violations of human rights and all forms of ethnic discrimination in Abkhazia and the Tskhinvali region.